

AMENDED IN SENATE AUGUST 9, 2010

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JUNE 22, 2010

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 702**

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**Introduced by Assembly Member Salas**

February 26, 2009

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An act to amend Section 50517.5 of the Health and Safety Code, relating to housing and community development, *and declaring the urgency thereof, to take effect immediately.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 702, as amended, Salas. Joe Serna, Jr. Farmworker Housing Grant Program: agricultural employees.

Existing law establishes the Joe Serna, Jr. Farmworker Housing Grant Program, administered by the Department of Housing and Community Development, under which, subject to the availability of funds, grants or loans, or both, are made available for the construction or rehabilitation of housing for agricultural employees, as defined, and their families or for the acquisition of manufactured housing to remedy the impacts of the displacement of farmworker families.

This bill would modify the definition for the term “agricultural employees.”

*This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 50517.5 of the Health and Safety Code  
2 is amended to read:  
3 50517.5. (a) (1) The department shall establish the Joe Serna,  
4 Jr. Farmworker Housing Grant Program under which, subject to  
5 the availability of funds therefor, grants or loans, or both, shall be  
6 made to local public entities, nonprofit corporations, limited  
7 liability companies, and limited partnerships, for the construction  
8 or rehabilitation of housing for agricultural employees and their  
9 families or for the acquisition of manufactured housing as part of  
10 a program to address and remedy the impacts of current and  
11 potential displacement of farmworker families from existing labor  
12 camps, mobilehome parks, or other housing. Under this program,  
13 grants or loans, or both, may also be made for the cost of acquiring  
14 the land and any building thereon in connection with housing  
15 assisted pursuant to this section and for the construction and  
16 rehabilitation of related support facilities necessary to the housing.  
17 In its administration of this program, the department shall disburse  
18 grants or loans, or both, to the local public entities, nonprofit  
19 corporations, limited liability companies, or limited partnerships  
20 or may, at the request of the local public entity, nonprofit  
21 corporation, limited liability company, or limited partnership that  
22 sponsors and supervises the rehabilitation or construction program,  
23 disburse grant funds to agricultural employees who are participants  
24 in a rehabilitation or construction program sponsored and  
25 supervised by the local public entity, nonprofit corporation, limited  
26 liability company, or limited partnership. No part of a grant or loan  
27 made pursuant to this section may be used for project organization  
28 or planning.  
29 (2) Notwithstanding any other provision of this chapter, upon  
30 the request of a grantee the program also may loan funds to a  
31 grantee at no more than 3 percent simple interest. Principal and  
32 accumulated interest is due and payable upon completion of the  
33 term of the loan. For any loan made pursuant to this subdivision,

1 the performance requirements of the lien shall remain in effect for  
2 a period of no less than the original term of the loan.

3 (3) The program shall be administered by the Director of  
4 Housing and Community Development and officers and employees  
5 of the department as he or she may designate.

6 (b) (1) The Joe Serna, Jr. Farmworker Housing Grant Fund is  
7 hereby created in the State Treasury. Notwithstanding Section  
8 13340 of the Government Code, all money in the fund is  
9 continuously appropriated to the department for making grants or  
10 loans, or both, pursuant to this section and Section 50517.10, for  
11 purposes of Chapter 8.5 (commencing with Section 50710), and  
12 for costs incurred by the department in administering these  
13 programs.

14 (2) There shall be paid into the fund the following:

15 (A) Any moneys appropriated and made available by the  
16 Legislature for purposes of the fund.

17 (B) Any moneys that the department receives in repayment or  
18 return of grants or loans from the fund, including any interest  
19 therefrom.

20 (C) Any other moneys that may be made available to the  
21 department for the purposes of this chapter from any other source  
22 or sources.

23 (D) All moneys appropriated to the department for the purposes  
24 of Chapter 8.5 (commencing with Section 50710) and any moneys  
25 received by the department from the occupants of housing or shelter  
26 provided pursuant to Chapter 8.5 (commencing with Section  
27 50710). These moneys shall be separately accounted for from the  
28 other moneys deposited in the fund.

29 (c) (1) Grants and loans made pursuant to this section shall be  
30 matched by grantees with at least equal amounts of federal moneys,  
31 other cash investments, or in-kind contributions.

32 (2) For grant or loan requests of not more than five hundred  
33 thousand dollars (\$500,000), the department may waive a part of  
34 the matching fund requirement in this subdivision if the grantee  
35 demonstrates an inability, as may be established by the department  
36 in "Notices of Funding Availability," to secure adequate financing  
37 from other sources. Not more than 5 percent of the total amount  
38 appropriated to the department for the purposes of this section may  
39 be used to meet grant or loan requests in which a part of the

1 matching fund requirement has been waived pursuant to this  
2 paragraph.

3 (d) With respect to the supervision of grantees, the department  
4 shall do the following:

5 (1) Establish minimum capital reserves to be maintained by  
6 grantees.

7 (2) Fix and alter from time to time a schedule of rents that may  
8 be necessary to provide residents of housing assisted pursuant to  
9 this section with affordable rents to the extent consistent with the  
10 maintenance of the financial integrity of the housing project. No  
11 grantee shall increase the rent on any unit constructed or  
12 rehabilitated with the assistance of funds provided pursuant to this  
13 section without the prior permission of the department, which shall  
14 be given only if the grantee affirmatively demonstrates that the  
15 increase is required to defray necessary operating costs or avoid  
16 jeopardizing the fiscal integrity of the housing project.

17 (3) Determine standards for, and control selection by grantees  
18 of, tenants and subsequent purchasers of housing constructed or  
19 rehabilitated with the assistance of funds provided pursuant to this  
20 section.

21 (4) (A) Require as a condition precedent to a grant or loan, or  
22 both, of funds that the applicant have site control that is satisfactory  
23 to the department; that the grantee be record owner in fee of the  
24 assisted real property or provide other security including a lien on  
25 the manufactured home that is satisfactory to the department to  
26 ensure compliance with the construction, financial, and program  
27 obligations; and that the grantee shall have entered into a written  
28 agreement with the department binding upon the grantee and  
29 successors in interest to the grantee. The agreement shall include  
30 the conditions under which the funds advanced may be repaid.  
31 The agreement shall include provisions for a lien on the assisted  
32 real property or manufactured home in favor of the State of  
33 California for the purpose of securing performance of the  
34 agreement. The agreement shall also provide that the lien shall  
35 endure until released by the Director of Housing and Community  
36 Development.

37 (B) If funds granted or loaned pursuant to this section constitute  
38 less than 25 percent of the total development cost or value,  
39 whichever is applicable, of a project assisted under this section,  
40 the department may adopt, by regulation, criteria for determining

1 the number of units in a project to which the restrictions on  
2 occupancy contained in the agreement apply. In no event may  
3 these regulations provide for the application of the agreement to  
4 a percentage of units in a project that is less than the percentage  
5 of total development costs that funds granted or loaned pursuant  
6 to this section represent.

7 (C) Contemporaneously with the disbursement of the initial  
8 funds to a grantee, the department shall cause to be recorded, in  
9 the office of the county recorder of the county in which the assisted  
10 real property is located, a notice of lien executed by the Director  
11 of Housing and Community Development. The notice of lien shall  
12 refer to the agreement required by this paragraph for which it  
13 secures and it shall include a legal description of the assisted real  
14 property that is subject to the lien. The notice of lien shall be  
15 indexed by the recorder in the Grantor Index to the name of the  
16 grantee and in the Grantee Index to the name of the State of  
17 California, Department of Housing and Community Development.  
18 For manufactured housing, the liens shall be recorded by the  
19 department in the same manner as other manufactured housing  
20 liens are recorded. The department shall adopt by regulation criteria  
21 for the determination of the lien period. This regulation shall take  
22 into account whether the property is held by multifamily rental,  
23 single-family ownership, or cooperative ownership and whether  
24 it is new construction or rehabilitative construction. The lien period  
25 for manufactured housing liens for manufactured homes shall not  
26 exceed 10 years.

27 (D) Pursuant to regulations adopted by the department, the  
28 department may execute and cause to be recorded in the office of  
29 the recorder of the county in which a notice of lien has been  
30 recorded, or the department, as appropriate, a subordination of the  
31 lien. The regulations adopted by the department shall provide that  
32 any subordination of the lien shall not jeopardize the security  
33 interest of the state and shall further the interest of farmworker  
34 housing. The recitals contained in the subordination shall be  
35 conclusive in favor of any bona fide purchaser or lender relying  
36 thereon.

37 (E) Prior to funds granted pursuant to this section being used  
38 to finance the acquisition of a manufactured home, the grantee  
39 shall ensure that the home either is already installed in a location  
40 where it will be occupied by the eligible household or that a

1 location has been leased or otherwise made available for the  
2 manufactured home to be occupied by the eligible household.

3 (5) Regulate the terms of occupancy agreements or resale  
4 controls, to be used in housing assisted pursuant to this section.

5 (6) Provide linguistically appropriate services and publications,  
6 or require grantees to do so, as necessary to implement the purposes  
7 of this section.

8 (7) The agreement between the department and the grantee shall  
9 provide, among other things, that both of the following occur:

10 (A) Upon the sale or conveyance of the real property, or any  
11 part thereof, for use other than for agricultural employee  
12 occupancy, the grantee or its successors shall, as a condition for  
13 the release of the lien provided pursuant to paragraph (4), repay  
14 to the fund the department's grant and loan funds.

15 (B) Upon the sale or conveyance of the real property or any part  
16 thereof for continued agricultural employee occupancy, the  
17 transferee shall assume the obligation of the transferor and the real  
18 property shall be transferred to the new owner; provided that the  
19 transferee agrees to abide by the agreement entered into between  
20 the transferor and the department and that the new owner takes  
21 the property subject to the lien provided pursuant to paragraph (4),  
22 except that this lien shall, at the time of the transfer of the property  
23 to the new owner, be extended for an additional lien period  
24 determined by the department pursuant to paragraph (4), and the  
25 new owner shall not be credited with the lien period that had run  
26 from the time the transferor had acquired the property to the time  
27 of transfer to the new owner, unless the department determines  
28 that it is in the best interest of the state and consistent with the  
29 intent of this section to so credit the lien period to the new owner.  
30 However, the lien shall have priority as of the recording date of  
31 the lien for the original grantee, pursuant to paragraph (4).

32 (e) The department may do any of the following with respect  
33 to grantees:

34 (1) Through its agents or employees enter upon and inspect the  
35 lands, buildings, and equipment of a grantee, including books and  
36 records, at any time before, during, or after construction or  
37 rehabilitation of units assisted pursuant to this section. However,  
38 there shall be no entry or inspection of any unit that is occupied,  
39 whether or not any occupant is actually present, without the consent  
40 of the occupant.

1 (2) Supervise the operation and maintenance of any housing  
2 assisted pursuant to this section and order repairs as may be  
3 necessary to protect the public interest or the health, safety, or  
4 welfare of occupants of the housing.

5 (f) The department shall include in its annual report required  
6 by Section 50408, a current report of the Joe Serna, Jr. Farmworker  
7 Housing Grant Program. The report shall include, but need not be  
8 limited to, (1) the number of households assisted, (2) the average  
9 income of households assisted and the distribution of annual  
10 incomes among assisted households, (3) the rents paid by  
11 households assisted, (4) the number and amount of grants or loans,  
12 or both, made to each grantee in the preceding year, (5) the dollar  
13 value of funding derived from sources other than the state for each  
14 project receiving a grant or loan, or both, under this section, and  
15 an identification of each source, (6) recommendations, as needed,  
16 to improve operations of the program and respecting the desirability  
17 of extending its application to other groups in rural areas identified  
18 by the department as having special need for state housing  
19 assistance, and (7) the number of manufactured housing units  
20 assisted under this section.

21 (g) As used in this section:

22 (1) "Agricultural employee" has the same meaning as specified  
23 in subdivision (b) of Section 1140.4 of the Labor Code, but also  
24 includes any person who works on or off the farm in the processing  
25 of any agricultural commodity until it is shipped for distribution,  
26 whether or not this person is encompassed within the definition  
27 specified in subdivision (b) of Section 1140.4 of the Labor Code.

28 (2) "Grantee" means the local public entity, nonprofit  
29 corporation, limited liability company, or limited partnership that  
30 is awarded the grant or loan, or both, under this section, and, at  
31 the request thereof, may include an agricultural employee receiving  
32 direct payment of a grant for rehabilitation under this section who  
33 occupies the assisted housing both before and after the  
34 rehabilitation and may include an agricultural employee receiving  
35 direct payment of a grant for construction under this section who  
36 will occupy the assisted housing and who is a participant in a  
37 rehabilitation or construction program sponsored and supervised  
38 by a local public entity, nonprofit corporation, limited liability  
39 company, or limited partnership.

1 (3) “Housing” may include, but is not necessarily limited to,  
2 conventionally constructed units and manufactured housing  
3 installed pursuant to either Section 18551 or 18613.

4 (4) “Limited liability company” means a limited liability  
5 company where all the members are nonprofit public benefit  
6 corporations.

7 (5) “Limited partnership” means a limited partnership where  
8 all of the general partners are either nonprofit public benefit  
9 corporations, limited liability companies, or a combination of  
10 nonprofit public benefit corporations and limited liability  
11 companies.

12 (h) The department may provide the assistance offered pursuant  
13 to this chapter in any area where there is a substantial unmet need  
14 for farmworker housing.

15 *SEC. 2. This act is an urgency statute necessary for the*  
16 *immediate preservation of the public peace, health, or safety within*  
17 *the meaning of Article IV of the Constitution and shall go into*  
18 *immediate effect. The facts constituting the necessity are:*

19 *In order to increase the number of agricultural employees*  
20 *eligible for housing assistance, and to help address those*  
21 *individuals’ urgent housing needs, it is necessary that this act take*  
22 *immediate effect.*